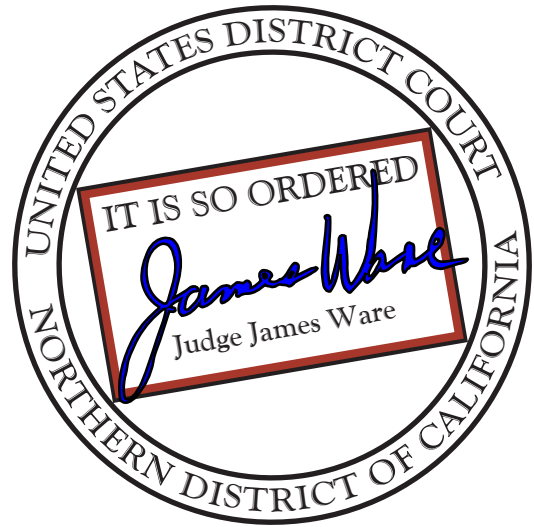


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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

v.

KENNETH L. SCHROEDER

Defendant.

No. C-07-3798-JW

STIPULATION AND [PROPOSED]
MODIFIED SCHEDULING ORDER

Plaintiff United States Securities and Exchange Commission and defendant Kenneth L. Schroeder, in light of the Court's rulings at the Case Management Conference held on January 12,

2009, and to reflect those rulings as well as other agreements of the parties, stipulate and agree to the following¹:

1. Further Case Management Conference

The parties shall appear for a further Case Management Conference on April 6, 2009, at 10:00 a.m.

2. Close of Fact Discovery

The close of fact discovery in this case, unless otherwise ordered by the Court, shall be 180 days from the later of: (a) ten days after the ruling of Magistrate Judge Howard R. Lloyd on Schroeder's Motion to Compel (Document 75); or (b) a ruling by this Court on any appeal from Magistrate Judge Lloyd's ruling on Schroeder's Motion to Compel.²

3. Disclosure of Expert Witnesses

Any party wishing to present expert witness testimony with respect to a claim or a defense shall lodge with the Court and serve on all other parties the name, address, qualifications, résumé and a written report which complies with Fed. R. Civ. P. 26(a)(2)(B) no later than 30 days after the close of fact discovery. Expert witness disclosure must be made with respect to a person who is either (a) specially retained or specially employed to provide expert testimony pursuant to Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to provide expert opinion testimony. The parties are also required to lodge any supplemental reports to which any expert will testify at trial in accordance with Fed. R. Civ. P. 26(a)(2)(B).

¹ The parties disagreed at the Case Management Conference with regard to the appropriate length of time for discovery in this case, and Mr. Schroeder continues to believe that a longer period will be necessary. Without waiving his right to seek additional time from the Court should the need arise, Mr. Schroeder has entered into this stipulation to reflect the Court's rulings on January 12, 2009, and to memorialize other agreements reached by the parties apart from the time for discovery.

² At the January 12 Case Management Conference, the Court stated that the close of discovery would be six months (180 days) after the later of a ruling on the Motion to Compel by Magistrate Judge Lloyd or by Judge Ware on any appeal from that ruling. The parties conferred after the Case Management Conference and agreed that this 180-day deadline was more appropriate for the close of fact discovery, with expert disclosures and discovery to follow as set forth herein. The parties request that the Court enter this order accordingly.

4. Rebuttal Expert Witnesses

If the testimony of the expert is intended solely to contradict or rebut opinion testimony on the same subject matter identified by another party, the party proffering a rebuttal expert shall make the disclosures required by Fed. R. Civ. P. 26(a)(2)(B), no later than 45 days after the close of fact discovery.

5. Depositions of Experts

Depositions of any expert witnesses identified by either party shall be completed no later than 75 days after the close of fact discovery.

6. Other Deadlines

Other deadlines, including dates for the filing of dispositive motions, the preliminary pretrial conference, and the preliminary pretrial statement, shall be set at the Case Management Conference set for April 6, 2009, as appropriate.

Dated: January 15, 2009

Securities and Exchange Commission

By: /s/ Mark Fickes

Mark Fickes

Attorneys for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

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Dated: January 15, 2009

DLA PIPER LLP (US)

By: /s/ Jeffrey B. Coopersmith

JEFFREY B. COOPERSMITH

Attorneys for Defendant

KENNETH L. SCHROEDER

ORDER

IT IS SO ORDERED.

Dated: January 23, 2009



JAMES WARE
United States District Court

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